



U.S. Department
of Transportation

Research and
Special Programs
Administration

Office of the
Chief Counsel

400 Seventh St. S.W.
Washington, D.C. 20590

OCT 24 2001

Mr. Ray Reid
Vice President and General Manager
Arkla Division
Reliant Energy Arkla, Inc.
P. O. Box 751
Little Rock, AR 75501

RE: CPF No. 2-2001-0001

Dear Mr. Reid:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$10,000. The penalty payment terms are set forth in the Final Order. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. §190.5.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
WASHINGTON, DC 20590

In the Matter of

Reliant Energy Arkla, Inc.

Respondent.

CPF No. 2-2001-0001

FINAL ORDER

Pursuant to 49 U.S.C. § 60117, a representative of the Southern Region, Office of Pipeline Safety (OPS) initiated an investigation of an incident involving a natural gas line operated by Reliant Energy Arkla, Inc. (Respondent). The Director, Southern Region, OPS, issued to Respondent, by letter dated January 22, 2001, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent violated 49 C.F.R. § 191.9 and proposed assessing a civil penalty of \$10,000 for the alleged violation.

In a letter dated February 16, 2001, Respondent submitted a Response to the Notice. Respondent contested the alleged violation, offered an explanation and requested reconsideration of the proposed civil penalty. Respondent did not request a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleges that Respondent violated 49 C.F.R. § 191.9, as Respondent failed to submit Form RSPA F 7100.1 as soon as practicable but not more than 30 days after detection of an incident required to be reported under 191.5. The incident, an explosion, occurred at 1108 West Hazel Street, Prescott, Arkansas on October 2, 2000, resulting in one death and one injury.

Respondent contested the alleged violation and explained that it reported the incident to the Arkansas Public Service Commission (Commission) and the National Response Center (NRC) in a timely manner. Respondent argued that while initial indications were that natural gas was the cause of the incident, its later investigation revealed that natural gas was not the cause of the explosion, making it a non-reportable incident.

The Commission conducted a thorough investigation of the incident. On October 2, 2000, Respondent's personnel performed a leak survey test and conducted combustible gas indicator

(CGI) tests. The strongest indication of natural gas was noted to be at the natural gas service riser. The CGI reading indicated 86% natural gas near the natural gas service riser. The meter assembly was located on the west side of the residence approximately 1 foot north of the front door of the residence. The location of the meter indicates that it and the service line were the responsibility of the Respondent to maintain. The natural gas leak was approximately 1-2 feet from the front main entry door on the west side of the residence.

On October 3, 2000, the entire riser, regulator and a short section of the service line were removed and sent to a metallurgical laboratory. Laboratory reports stated that the service line running from the street to the 90° elbow was fractured and that the failure location occurred on the bottom of the 90° elbow joint. The Commission concluded that the explosion was caused by natural gas escaping from the meter due to a fracture in service line. According to Respondent's records, on June 23, 2000, it read the meter after a tenant moved out. The meter dial reading was 554 on June 23, 2000. Although the property was vacant from June 23, 2000 to October 2, 2000, Respondent's records indicated gas consumption of approximately nine cubic feet. This meter activity should have signaled to Respondent that gas was a factor in the accident since Respondent's records indicated that the service was turned off and the inlet valve locked between June 23 and October 2.

The Commission's report has determined that the explosion was proximately caused by a natural gas leakage at a rate of 467 CFH. The natural gas leak in the area of the gas meter built up in the residence over a period of time. There is nothing in the Commission's report that indicates serious doubt about the involvement of natural gas in the incident during the course of its investigation. The conclusion is that the incident at 1108 West Hazel Street, Prescott, Arkansas on October 2, 2000 was a reportable incident.

The Commission mailed a report of its findings to the Respondent on January 23, 2001. Respondent's response is dated February 16, 2001. Respondent did not provide any support for its assertion that this was not a reportable incident.

From the time the incident was reported to the NRC, the incident met and continued to meet the requirements defined in 49 C.F.R. §191.3. An operator must report leaks occurring on its distribution system for any incident defined in §191.3(1). Any leak that constitutes an unintended escape of gas, that results directly from or that has a contributing cause, a defect or act on a pipeline facility over which the Department has jurisdiction, is reportable under Part 191. Respondent was required to submit Form RSPA F 7100.1 to report this leak which resulted in the escape of gas, endangered the public and resulted in one death and one injury. Respondent has not shown any circumstance that justified its failure to submit Form RSPA F 7100.1 within thirty (30) days after detection of the incident. Accordingly, I find Respondent violated 49 C.F.R. §191.9.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed assessing a penalty of \$10,000 for violation of 49 C.F.R. § 191.9.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

Respondent requested reconsideration of the proposed civil penalty based on its determination that the explosion did not meet the code requirements of a reportable incident. If an incident is initially reported to the NRC as a reportable incident and the operator later determine that the incident is non-reportable, then the operator must contact NRC to retract its telephonic report. Respondent did not contact NRC to retract its telephonic report nor did Respondent submit Form RSPA F 7100.1 within thirty (30) days after detection of the incident. Respondent has not shown any circumstance that would have prevented or justified it not submitting Form RSPA F 7100.1 within thirty (30) days after detection of the incident. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000. A determination has been made that Respondent has the ability to pay this penalty without adversely affecting its ability to continue business.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. **Detailed instructions are contained in the enclosure.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel (DCC-1)**, Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001.

Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25770, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$10,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in an United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

OCT 24 2001

Date Issued